

The Alabama Jury Verdict Reporter

The Most Current and Complete Summary of Alabama Jury Verdicts

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Statewide Jury Verdict Coverage - Published Monthly

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Alabama's Jury Verdict Reporter Since 2001

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Civil Jury Verdicts

Complete and timely coverage of civil jury verdicts in Alabama including circuit, presiding judge, parties, case number, attorneys and results.

Swimming Pool Negligence -

A teenage boy drowned at a country club pool after he descended into the deep end from a slide – while there was no lifeguard on duty, the country club had prominent warning signs in place – the plaintiff's theory was that a local county regulation imposed a duty to have two lifeguards on duty and that this breach led to the plaintiff's death – the plaintiff prevailed at trial and took damages of \$7.5 million

Adams v. Riverchase Country Club, 2:23-1540

Plaintiff: Bryan E. Comer, Desmond V. Tobias and Lacey D. Smith, *Tobias & Comer*, Mobile and Thomas Coleman, Jr., *Smith Spires Peddy Hamilton & Coleman*, Birmingham
Defense: Irving W. Jones, Jr., Jason B. Tompkins and M. Ames Filippini, *Balch & Bingham*, Birmingham
Verdict: \$7,500,000 for plaintiff
Federal: **Birmingham**, 6-10-26
Judge: Liles C. Burke

Reginald "Devon" Adams had just turned 18 in the summer of 2023 and was a recent graduate of Pelham High School. He was a popular young man and a long-time stalwart on the Pelham track team. On the afternoon of 8-23-23, Adams joined friends at the Riverchase Country Club in Hoover (Shelby County, AL) for a birthday. It was a Tuesday.

The country club has a swimming pool. It features a long slide (it looks like one you'd see on a playground) that empties into the pool's deep end. That deep end is 12 feet deep. Riverchase, which is operated by a Virginia company, HGC Riverchase, uses certified lifeguards from Friday to Sunday. There are none the rest of

the week. As patrons enter the pool there is clear signage indicating there are no lifeguards and that patrons swim at their own risk. The depth of the deep end was also marked by a sign on the surface of the pool deck.

Adams and his friends entered the pool deck. It was 4:45 in the afternoon. One of his friends slid down the slide and into the pool. Adams did the same thing. After a minute or so Adams' friends noticed he was at the bottom of the pool. At least one wondered if he was playing the "hold your breath game." It soon became clear Adams was drowning. His friends jumped in the pool and tried to pull him out. They struggled to do so and finally were able to by using a twelve-foot pool crook. He was in the water from five to six minutes.

Adams was unconscious when pulled from the water. EMTs arrived quickly to render aide and Adams was taken to the hospital. He had suffered a severe anoxic brain injury during the drowning event. He died the next day. Adams was survived by his mother.

In this lawsuit Adams' estate sued Riverchase and alleged negligence by it in failing to have two certified lifeguards on duty at the pool. What was the basis for that duty? The estate cited a Shelby County regulation that imposed this requirement.

The pool safety expert for the plaintiff was Tom Griffiths, Penn State, who cited the country club failed to meet industry safety standards. He also indicated that if certified lifeguards had been in place, they would have appreciated

Historical Alabama Verdicts

Assault/Battery - The plaintiff was kidnapped at gunpoint, tarred and feathered and left at a garbage dump by the ex-wife (and her sister) of the plaintiff's fiancé – the jury found for the plaintiff and awarded \$35,000, although by the time of trial she was divorcing the man she planned to marry, and ultimately the plaintiff married the ex-husband of the sister!

McElwey v. McElwey, et al.

Plaintiff: James Speake, Moulton

Defense: Miles T. Powell, Decatur

Verdict: \$35,000 for plaintiff

Court: **Lawrence**

Judge: Billy Burney

Date: December 2, 1982

There was a remarkable case (it became a nationwide sensation at the time) that arose in an unlikely place, Town Creek, Alabama in Lawrence County. It was also described by the presiding judge (Burney) as making the community a laughing stock. Here's what happened. Elizabeth Jamison of Michigan fell in love with an Alabama physician, Dr. John McElwey. They exchanged correspondence, and Jamison moved to Alabama to marry the doctor. The wedding was set for March 26, 1981

John was single at the time. He'd divorced his first wife (Marita McElwey) in 1975. However there was proof they had reconciled and were living as common law husband and wife. Marita, then age 55, was not a woman to be trifled with when it came to her husband. She was not happy at all that John was going to marry Elizabeth. Marita was simply not having it. She felt she had to do something.

Marita met with her sister (Robbie McCorkle) and they hatched a plan over coffee. They'd read an old book and were impressed that a "tarring and feathering" was a suitable



The plaintiff (middle) flanked by her "tar and feather" attackers

remedy in such a circumstance. The sisters acted on this plot on March 24, 1981.

They kidnapped Elizabeth from her trailer at gun point. They cut her hair and then tarred and feathered her. Elizabeth was left at a rural garbage dump in Town Creek. It was traumatic and frightening for Elizabeth. It was a crime too, and Marita was later convicted of second-degree kidnapping. Her sister pled guilty to criminal trespass. Judge Billy Burney sentenced both to probation.

Elizabeth went on to marry John two days after the tarring and feathering. She also filed this lawsuit against Marita and her sister. That case came to trial in December of 1981. By this time the case was a national sensation. Local reporters breathlessly covered the trial. Interestingly the relationship between Elizabeth and her new doctor husband didn't work out. By the time of the civil trial, they were divorcing.

Elizabeth sought damages of \$800,000. Her attorney, James Speake, asked the jury if they wanted to live in a civilized society or would anarchy prevail? Miles Powell for the sisters described Elizabeth as a carpet-bagger who had come from Michigan on a raid and to line her

pockets. While the sisters had admitted the attack, Powell wasn't sure it was the wrong thing to do. Marita had testified that she'd been tormented for years and couldn't let her husband go.

The jury in Moulton deliberated for 7.5 hours over two days. It awarded Elizabeth \$35,000 in damages. There was no appeal. The sisters didn't have assets to speak of and while Elizabeth made efforts to collect, she apparently never collected a penny.

In fact Elizabeth bid on property that the defendants had an interest in, but this did not result in a payout. The case later went to the Alabama Supreme Court which ruled in 1991, *McCorkle v. McElwey*, 576 So.2d 202 (1991) that Elizabeth's bid on the property hadn't foreclosed her ability to continue to collect on the case.

There is one final bit of irony in this case. Elizabeth and Dr. John later divorced. Elizabeth finally did find love she was looking for. She married Robbie's ex-husband (Brad) and they were together until her death in 2019.

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